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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,050	12/10/2003	Brack E. Smith	AD#-154	7821

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EXAMINER
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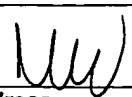
SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/733,050	Applicant(s) SMITH, BRACK E.	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on September 07, 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,403,412 to Gottfried et al. in view of U.S. Patent Publication No. 2003/0126680 to Stephen and further in view of U.S. Patent No. 5,553,352 to Bolton.

Gottfried et al. discloses, Figs. 1, 6, 7, 9, and 11 a crib comprising at least two end supports (1, 2), a central bed (not shown) extending between the two end supports and two side frame members (14, 15) for restraining an infant wherein one (14) of the side frame members has at least one access door (41) which pivots out of the way. Figs. 6, 7, 9, and 11 disclose various embodiments of doors that may be employed by Gottfried et al. The Gottfried et al. crib is wheelchair accessible such that the two end supports are spaced by a width greater than the maximum width of the wheelchair and the central bed extending between the two end supports have a lowermost extent which exceeds the seat height of the wheelchair by an amount sufficient to accommodate a lap of the care giver depending upon what type of wheelchair is utilized. Claim 1 does not positively set forth any specific wheelchair as part of the claimed invention.

In any event, Stephen discloses an elevated infant crib designed for wheelchair access. The crib comprises at least two end supports (15, 15') spaced by a width greater than the maximum width of the wheelchair and a central bed (11) extending

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between the two end supports have a lowermost extent which exceeds the seat height of the wheelchair by an amount sufficient to accommodate a lap of the care giver. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the crib of Gottfried by spacing the end support a width greater than the maximum width of the wheelchair and the providing the central bed extending between the two end supports with a lowermost extent which exceeds the seat height of the wheelchair by an amount sufficient to accommodate a lap of the care giver so as to be wheelchair accessible, as taught by Stephen.

Further, Bifold doors, (which pivotally retract), are well known in the door art and Bolton discloses, in col. 1, lines 4-8, that "bifold doors ... take less space than a traditional "swing" door". Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the swing door of Gottfried, as modified by Stephen, with a bi-fold door so as to provide a door which requires less space as is taught by Bolton. Thus, a wheelchair-bound care giver is not required to back away from the crib to permit the door to clear.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gottfried et al. in view of Stephen and Bolton as applied to claim 2 above, and further in view of U.S. Patent No. 4,295,514 to Johnson.

Gottfried, as modified, fails to specifically disclose a pair of bifold doors. Johnson discloses, in Fig. 1, an access door comprising a pair of bi-fold doors. It would have been obvious to one having ordinary skill in the art at the time the invention was made

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to substitute the fixed door (42) and the pivoting door (41) of Gottfried with a pair of bi-fold doors so as to provide greater access opening to the infant as is taught by Johnson.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottfried et al. in view of Stephen and Bolton as applied to claim 3 above, and further in view of U.S. Patent No. 2,555,160 to Schwarz.

Although Gottfried discloses the access door having a latch means for securing the door in a closed position, Gottfried, as modified, fails to disclose latch means securing a pair of doors in closed position pending actuation by the caregiver. Schwarz discloses a crib comprising a pair of access doors (28). The doors are provided with latch means 32, 36, (one portion mounted upon one door and one portion mounted upon the other door), for holding the doors in closed position pending actuation by the caregiver.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bifold doors with latch means, (including one portion mounted upon one door and one portion mounted upon the other door), so as to securely retain the doors in a closed position as is taught by Schwarz. Forming the vertically aligned latches as separate units would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made as it is well known that omission of an element and its function is obvious if the function of the element is not desired, see *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) (Omission of additional framework and axle which served to increase the cargo carrying capacity of prior art mobile fluid carrying unit would have been obvious if this

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feature was not desired.); and In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (deleting a prior art switch member and thereby eliminating its function was an obvious expedient).

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed September 07, 2004 have been fully considered but they are not persuasive. Stephen has been utilized to teach crib designed for wheelchair access. Gottfried teaches swinging as well as sliding doors; see Figs. 6 and 11, for example. Therefore modification of Gottfried et al. as by Bolton is tenable. And, the fact that either of Bolton or Johnson are directed to "household door art" and not specifically the "crib art" does not serve to obviate a rejection combining the teachings of Gottfried et al. with Bolton and Johnson. Both Bolton and Johnson have been utilized to modify a door structure of Gottfried et al.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354

M. Safavi  
December 06, 2004